

REMARKS

This is a response to a non-final office action dated October 29, 2009. In the office action, claims 1-9, 14, 15, 17, 18, 26, 28-35, 40, 41, 43, and 44 are rejected as being anticipated over a prior art. Furthermore, claims 10, 11, 16, 19-21, 23, 25, 37-39, 42, 45, 46, 48, and 49 are objected to as being dependent upon a rejected base claim. In addition, claims 5, 12, 13, 17, 22, 24, 34, 36, and 47 are objected to due to informalities. In response, claims 1, 5, 10, 12, 13, 16, 18, 20, 21, 22, 24, 26, 32-34, 36, 42, 44, and 46-49 have been amended, and claims 17, 19, 27, 43, and 45 have been canceled. In light of the foregoing amendments and following remarks, applicants respectfully submit that pending claims 1-49 are in condition for allowance and respectfully solicit same.

Objections

First, with respect to the objection to claims 5, 12, 13, 17, 22, 24, 34, 36, and 47, Applicants have amended the claims as suggested by the Examiner. A period has been added to the end of the claims. No new matter has been added. As a result, the objection to the claims has been overcome and should be withdrawn.

Second, with respect to the objections to claims 10, 11, 16, 19-21, 23, 25, 37-39, 42, 45, 46, 48, and 49, Applicants have amended claims 10, 16, 42, 48, and 49 to be rewritten in independent form, making them allowable, as suggested by the Examiner. Claims 19 and 45 have been cancelled, and the subject matter has been incorporated into claims 1 and 26, respectfully. In light of the foregoing amendments, claims 11, 23, 25, and 37-39 have not been amended since they are dependent on allowable base claims 10, 22, 24, and 36, respectfully. Furthermore, claims 20, 21, and 46 have been amended to be dependent on allowable base claims 1 and 26, respectfully, which will be further apparent in the following remarks. No new matter has been added. Accordingly, the objections to the claims have been overcome and should be withdrawn.

Claim Rejections – 35 U.S.C. §102

In the office action, claims 1-9, 14, 15, 17, 18, 26, 28-35, 40, 41, 43, and 44 stand rejected as being anticipated over U.S. Patent No. 5,790,668 ("Tomko"). In light of the forgoing amendments, Applicants respectfully disagree. Under MPEP §2131,

"[t]o anticipate a claim, the reference must teach every element of the claim. "A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference." *Citing, Verdegaal Bros. v. Union Oil Co. of California*, 814 F.2d 628, 631, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987).

Tomko fails to meet this standard. Independent claims 1 and 26 have been amended in a similar manner to specify, among other things, a system and/or method of identification control of persons, for generating a unique means of identification associated with at least one person, including granting at least one entitlement to the person in which the person identifies themselves with the aid of the means of identification which has been previously associated therewith, and the entitlement is granted to the person when the entitlement has not already been granted to the person a number of times equal to a predetermined number, by consulting, in a database of entitlements, the entitlements already granted to persons, on the basis of an identifier.

Tomko does not disclose all such elements. Rather, Tomko discloses a method and apparatus for securely handling data in a database of biometrics and associated data. Tomko provides a system wherein a user scans in their biometric data (e.g. fingerprint). The system then determines if there is a match between the user's biometric data and the biometric data stored on a database. If no match is found, the system encrypts the user's biometric data, as well as the user's profile information, and stores the encrypted biometrics and associated data in the database (column 3, line 65 – column 4, line 49). The encryption ensures that only authorized personnel can view the user's profile. The authorized personnel can access the user's profile data by inserting a smart card with a PIN, which is also encrypted with the authorized personnel's biometrics. If the authorized personnel's PIN is recognized by the system as a match, the user's profile is decrypted for viewing (column 8, lines 19-49).

Tomko fails to disclose a system and/or method for granting at least one entitlement to a person in which the person identifies themselves with the aid of the means of identification which has been previously associated therewith, and the entitlement is granted to the person when the entitlement has not already been granted to the person a number of times equal to a predetermined number, by consulting, in a database of entitlements, the entitlements already granted to persons, on the basis of an identifier, as is specified in the claims. Tomko teaches allowing for multiple authorized users, each having their own individual biometric token (e.g. smart card), to access another user's associated data, i.e. a user's profile. Tomko fails to teach allowing a user to obtain multiple entitlements, up to a predetermined number, on one biometric token by consulting a database of entitlements.


Thus, as Tomko fails to disclose each and every claim element of independent claims 1 and 26, claims 1 and 26, as well as dependent claims 2-9, 14, 15, 17, 18, 28-35, 40, 41, 43, and 44, are not anticipated by Tomko, and the anticipation rejection must be withdrawn.

CONCLUSION

In light of the foregoing, applicants respectfully submit that each of the currently pending claims 1-49 are in condition for allowance and respectfully solicit the same. If a telephone call would expedite prosecution of the subject application, the Examiner is invited to call the undersigned.

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Respectfully submitted,

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